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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,531	05/31/2000	Shai Mohaban	50325-0085	6019

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HICKMAN PALERMO TRUONG & BECKER, LLP  
2055 GATEWAY PLACE  
SUITE 550  
SAN JOSE, CA 95110

EXAMINER
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FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/586,531

Applicant(s)

MOHABAN ET AL.

Examiner

Derrick W. Ferris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10-12,14-18,20-23,25-31 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,10-12, 15-18,20-23,26-31 and 34-38 is/are rejected.
- 7) ☒ Claim(s) 4,14,25 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/3/2006 has been entered.

### *Response to Arguments*

2. This Office action is in response to applicant's paper filed 7/3/2006. **Claims 1, 2, 4-8, 10-12, 14-18, 20-23, 25-31, 33-38** as filed 11/08/2005 are still in consideration for this application.

3. Examiner **withdraws** the obviousness rejections using *Gai et al.* as the base reference based on applicant's submitted 1.48(a) declaration. As such, please find a new rejection that does not use the *Gai et al* reference.

### *Claim Objections*

4. **Claim 1 and 26-29** are objected to because of the following informalities: **claim 1**, line 6 lacks proper antecedent basis for "*the proxy node*" which is further referenced at e.g., at line 8. Appropriate correction is required. **Claims 26-29** depend on canceled claim 24.

### *Claim Rejections - 35 USC § 101*

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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6. **Claims 11, 12, 14-18, 20, 22, 31, 33-38** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In particular, the claims are directed to a computer related non-statutory invention. Specifically, the descriptive material in the claim is drawn to non-functional material since only a data structure per se is claimed. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored in a computer-readable medium, in a computer, on an electromagnetic carrier signal does not make it statutory, see *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8. Hence, the claimed subject matter does not define a functional relationship between the data structure and the computer's software and/or hardware components which permit the data structure's functionality to be realized. In particular, the claims further recite a "computer readable medium" which is further defined by the specification at e.g., page 22, lines 11-20 to further include "transmission media" which is not proper under the new interim guidelines. Please e.g., either cancel the claims or amend the claims to further clarify that the "computer readable medium" includes either volatile or non-volatile media.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1, 2, 5, 7, 10-12, 15, 17, 20-23, 26, 28, 30, 31, 34, 36, and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,765,927 B1 to *Martin et al.* ("*Martin*") in view of "Resource Reservation Protocol (RSVP) Version 1 Function

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Specification” to *Braden et al.* (“*Braden*”) and RFC 2748 - The COPS (Common Open Policy Service) Protocol to *Durham et al.* (“*Durham*”).

As to **claim 1**, *Martin* discloses a proxy node as RSVP receiver host proxy service illustrated in FIG. 4 with respect to edge switch 440. As such, the anticipated source is taught as RSVP-aware source host 420 and the anticipated receiver is taught as RSVP-unaware destination host 410. In particular, note FIG. 5 in conjunction with FIG. 4 where switch 440 (i.e., proxy node) further includes RSVP router 547, QoS manager 542 and Policy Manager 543 used to initiate network resource reservations for particular traffic flows at the proxy node. The first RSVP PATH message is illustrated in FIG. 4 as entering switch 440. Since the RSVP router function 547, QoS manager 542 and Policy Manager 543 are used to determine whether to establish the network resources reservation, the policy information is further stored at switch 440, see e.g., column 6 and top of column 7. FIG. 4 further teaches communicating the RESV message to the anticipated source of the anticipated traffic flow as the RSVP RESV message exiting switch 440.

*Martin* may be silent or deficient to the further limitations of wherein the step of determining at the proxy node, whether to establish the network resources reservation includes determining one or more network parameter values associated with the anticipated traffic flow; determining one or more transport parameter values associated with the anticipated traffic flow; determining network and previous hop parameters associated with the anticipated traffic flow; and correlating at least one of the ascertained network parameter, transport parameter, next hop parameter, and previous hop

parameters with information defining a relationship between them and whether a RSVP message is desired. In particular, *Martin* teaches whether the RSVP PATH message meets certain criteria but does not explicitly teach the types of criteria included, see e.g., top of column 6 of *Martin*.

*Braden* teaches the further recited limitation above at respect to reservation setup which includes “admission control” and “policy control”. In particular, the network, transport, and hop parameters are further defined in the RSVP Message Format. Specifically, the RSVP Message Format includes SESSION, RSVP\_HOP, FLOWSPEC, FILTER\_SPEC, SENDER\_TEMPLATE, ADSPEC and POLICY DATA which reads on network, transport, and hop parameters, see e.g., Section 3.1.2 starting on page 34. In particular, note that the message contains IP address information e.g., network parameters; port information e.g., transport parameters; and RSVP hop type e.g., N hop or P hop parameters.

The proposed modification of the above-applied reference(s) necessary to arrive at the claimed subject matter would be to modify *Martin* by clarifying that the above parameters are implicitly taught by RSVP.

As such, the examiner notes that it would have been obvious to one skilled in the art prior to applicant’s invention to include the above limitation. In particular, the motivation for modifying the reference or to combine the reference teachings would be to support RSVP. In particular, *Braden* cures the above-cited deficiency by providing a motivation found at e.g., Section 1.1 or Section 3 with respect to the parameters supported by RSVP.

The examiner further notes that it may not be clear from *Martin* that the determination at the proxy node is made *without* receiving policy information from a policy server residing on the network. In particular, although the policy rules are stored at the policy server 450 of *Martin*, the examiner notes that the switch 440 also has a RSVP router, QoS Manager and Policy manager function, see e.g., FIG. 5. Thus the examiner notes that the rules are stored locally at the policy server since the switch 440 makes the RSVP policy determination. However, the examiner notes that it would have been obvious to further include the rules as part of the proxy node prior to applicant's invention. In particular, *RFC 2748* – The COPS (Common Open Policy Service) Protocol provides such a teaching and a motivation. Specifically, see e.g., figure 1 in Section 1.1 where the Policy Decision Point (PDP) can be located either remotely or locally. As such, in the absence of a remote PDP, the network node (e.g., the proxy) would use the local PDP (LPDP) to make local policy decisions. Hence, *RFC 2748* teaches that the PDP can be located either at the Policy Server or at the network node such that both options are possible thus providing a motivation. Specifically, a motivation to use a LPDP would be for fault tolerance as mentioned in Section 1.1 of *RFC 2748*. Specifically, even though the remote PDP remains the “authoritative decision point at all times”, should the remote PDP go off-line for an extended period of time then the local PDP would make all the decisions. Such decisions would then be forwarded to the remote PDP once back on-line for synchronization purposes (see also Section 2.5). Hence as long as the remote PDP is absent, the local PDP will make the decisions reading on the above claim limitations at issue.

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As to **claim 2**, the traffic parameters are part of the QoS parameters, see e.g., bottom of column 6 of *Martin* and Section 1.2 of *Braden*.

As to **claim 5**, see above with respect to the information contained in the RSVP message.

As to **claim 7**, the additional traffic flow attributes are taught as the parameters above related to the RSVP message.

As to **claim 10**, see figure 4 of *Martin* with respect to logically positioned.

As to **claim 11**, see similar rejection to claim 1.

As to **claim 12**, see similar rejection to claim 2.

As to **claim 15**, see similar rejection to claim 5.

As to **claim 17**, see similar rejection to claim 7.

As to **claim 20**, see similar rejection to claim 10.

As to **claim 21**, see similar rejection to claim 1.

As to **claim 22**, see similar rejection to claim 1.

As to **claim 23**, see similar rejection to claim 2.

As to **claim 26**, see similar rejection to claim 5.

As to **claim 28**, see similar rejection to claim 7.

As to **claim 30**, see similar rejection to claim 10.

As to **claim 31**, see similar rejection to claim 2.

As to **claim 34**, see similar rejection to claim 5.

As to **claim 36**, see similar rejection to claim 7.

As to **claim 38**, see similar rejection to claim 10.



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9. **Claims 6, 16, 27, 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,765,927 B1 to *Martin et al.* (“*Martin*”) in view of “Resource Reservation Protocol (RSVP) Version 1 Function Specification” to *Braden et al.* (“*Braden*”) and RFC 2748 - The COPS (Common Open Policy Service) Protocol to *Durham et al.* (“*Durham*”) in further view of U.S. Patent Application 2004/0022191 A1 to *Bernet et al.* (“*Bernet*”).

As to **claim 6**, *Braden* may teach size of packets, see e.g., page 49 of the RFC but may not be clear of the rate of packets associated with the flow. *Bernet* teaches the above limitation at e.g., paragraph 0034 on page 3. The examiner proposes to modify *Martin*, *Braden* and *Durham* to further clarify that it is well known in the art to contain a data rate for a traffic flow. As such, the examiner notes that it would have been obvious to one skilled in the art prior to applicant’s invention to further include the above limitation. In particular, one skilled in the art would have been motivated to make the proposed modification for the purpose of providing a service level for the flow. As such, *Bernet* teaches the proposed motivation at e.g., paragraph 0034 on page 3.

As to **claim 16**, see similar rejection to claim 6.

As to **claim 27**, see similar rejection to claim 6.

As to **claim 35**, see similar rejection to claim 6.

10. **Claims 8, 18, 29 and 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,765,927 B1 to *Martin et al.* (“*Martin*”) in view of “Resource Reservation Protocol (RSVP) Version 1 Function Specification” to *Braden et al.* (“*Braden*”) and RFC 2748 - The COPS (Common Open Policy Service) Protocol to *Durham et al.* (“*Durham*”) in further view of “Speech Communication for working group based on LAN” to *Lin et al.* (“*Lin*”).

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As to **claim 8**, *Braden* may teach a receiver host but may not be clear that the receiver host is an IP phone. *Lin* teaches the above limitation at e.g., page 880 left-hand column. The examiner proposes to modify *Martin*, *Braden* and *Durham* to further clarify that it is well known in the art that a host is an IP Phone as part of other computer configurations. As such, the examiner notes that it would have been obvious to one skilled in the art prior to applicant's invention to further include the above limitation. In particular, one skilled in the art would have been motivated to make the proposed modification for the purpose of using voice over an IP network i.e., VoIP.

As to **claim 18**, see similar rejection to claim 8.

As to **claim 29**, see similar rejection to claim 8.

As to **claim 37**, see similar rejection to claim 8.

#### ***Allowable Subject Matter***

11. **Claims 4, 14, 25, and 33** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

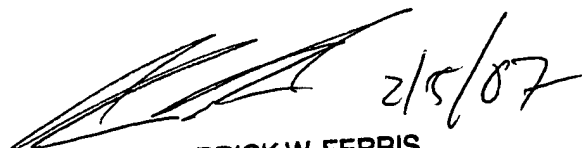
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DWF

Derrick W. Ferris  
Examiner  
Art Unit 2616



**DERRICK W. FERRIS**  
**PRIMARY PATENT EXAMINER**